

AMENDED IN ASSEMBLY MARCH 23, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1016**

---

**Introduced by Assembly Member Achadjian**

February 18, 2011

---

~~An act to add Sections 1102.18 and 3482.7 to the Civil Code, relating to nuisance. An act to amend Section 4750 of the Penal Code, and to amend Section 4117 of the Welfare and Institutions Code, relating to state hospitals, and making an appropriation therefor.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Achadjian. ~~Nuisance: landfill activities. Inmates: state hospitals: reimbursement of costs.~~

*Under existing law, a county is required to submit a statement of all nontreatment costs incurred by the county relating to a trial or hearing for a person who is confined to a state hospital, as specified, to the Controller for approval. Existing law requires those costs to be paid out of money appropriated by the Legislature to the county treasurer of the county in which the trial or hearing was held.*

*Under existing law, a city, county, or superior court is entitled to reimbursement for reasonable and necessary costs connected with trials and hearings relating to state prisons or prisoners, as specified.*

*This bill requires that reimbursement for nontreatment costs be paid from moneys appropriated by the Legislature for purposes of reimbursing cities, counties, or superior courts for prison-and prisoner-related costs. By adding a new purpose for previously appropriated funds, this will would make an appropriation.*

~~(1) Existing law defines a nuisance, in part, as anything that is injurious to health, or is indecent or offensive to the senses, or an~~

~~obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property. Existing law authorizes various remedies for nuisances, including remedies to effect abatement and damages. Existing law provides, among other things, that no agricultural activity, operation, or facility, or appurtenances thereof, as defined, in operation for more than 3 years, and conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, shall become a nuisance due to any changed condition in the locality if it was not a nuisance at the time it began, except as specified.~~

~~This bill would provide that no landfill activity, operation, or facility, or appurtenances thereof, as defined, in operation for more than 3 years, and conducted or maintained for commercial purposes in a manner consistent with proper and accepted customs and standards, shall become a nuisance due to any changed condition in the locality if it was not a nuisance at the time it began, except as specified.~~

~~(2) Existing law requires certain disclosures to be provided to the purchaser of specified residential real property consisting of not less than one or more than four dwelling units upon transfer of that property. Among other things, the seller of residential real property who has actual knowledge that the property is adjacent to, or zoned to allow, an industrial use, or affected by a nuisance created by that use, shall give written notice of that knowledge as soon as practicable before transfer of title.~~

~~This bill would require the seller of any residential dwelling consisting of not less than one or more than four dwelling units that is in close proximity to a landfill activity, operation, or facility, or appurtenances thereof, to give written notice to the purchaser of that real property before transfer of title that the property is subject to the provisions described in (1) above. The bill would require the purchaser to sign the required disclosure.~~

~~Vote: majority <sup>2</sup>/<sub>3</sub>. Appropriation: no-yes. Fiscal committee: no-yes. State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 4750 of the Penal Code is amended to  
2     read:

1     4750. A city, county, or superior court shall be entitled to  
2 reimbursement for reasonable and necessary costs connected with  
3 state prisons or prisoners in connection with any of the following:

4     (a) Any crime committed at a state prison, whether by a prisoner,  
5 employee, or other person.

6     With respect to a prisoner, “crime committed at a state prison”  
7 as used in this subdivision, includes, but is not limited to, crimes  
8 committed by the prisoner while detained in local facilities as a  
9 result of a transfer pursuant to Section 2910 or 6253, or in  
10 conjunction with any hearing, proceeding, or other activity for  
11 which reimbursement is otherwise provided by this section.

12     (b) Any crime committed by a prisoner in furtherance of an  
13 escape. Any crime committed by an escaped prisoner within 10  
14 days after the escape and within 100 miles of the facility from  
15 which the escape occurred shall be presumed to have been a crime  
16 committed in furtherance of an escape.

17     (c) Any hearing on any return of a writ of habeas corpus  
18 prosecuted by or on behalf of a prisoner.

19     (d) Any trial or hearing on the question of the sanity of a  
20 prisoner.

21     (e) Any costs not otherwise reimbursable under Section 1557  
22 or any other related provision in connection with any extradition  
23 proceeding for any prisoner released to hold.

24     (f) Any costs incurred by a coroner in connection with the death  
25 of a prisoner.

26     (g) Any costs incurred in transporting a prisoner within the host  
27 county or as requested by the prison facility or incurred for  
28 increased security while a prisoner is outside a state prison.

29     (h) Any crime committed by a state inmate at a state hospital  
30 for the care, treatment, and education of the mentally disordered,  
31 as specified in Section 7200 of the Welfare and Institutions Code.

32     (i) *Commencing January 1, 2012, any nontreatment costs*  
33 *described in Section 4117 of the Welfare and Institutions Code.*

34     ~~(i)~~

35     (j) No city, county, or other jurisdiction may file, and the state  
36 may not reimburse, a claim pursuant to this section that is presented  
37 to the Department of Corrections and Rehabilitation or to any other  
38 agency or department of the state more than six months after the  
39 close of the month in which the costs were incurred.

1     SEC. 2. *Section 4117 of the Welfare and Institutions Code is*  
2     *amended to read:*

3     4117. (a) Whenever a trial is had of any person charged with  
4     escape or attempt to escape from a state hospital, whenever a  
5     hearing is had on the return of a writ of habeas corpus prosecuted  
6     by or on behalf of any person confined in a state hospital except  
7     in a proceeding to which Section 5110 applies, whenever a hearing  
8     is had on a petition under Section 1026.2, subdivision (b) of Section  
9     1026.5, Section 2972, or Section 2966 of the Penal Code, Section  
10    7361 of this code, or former Section 6316.2 of this code for the  
11    release of a person confined in a state hospital, and whenever a  
12    person confined in a state hospital is tried for any crime committed  
13    therein, the appropriate financial officer or other designated official  
14    of the county in which the trial or hearing is had shall make out a  
15    statement of all mental health treatment costs and shall make out  
16    a separate statement of all nontreatment costs incurred by the  
17    county for investigation and other preparation for the trial or  
18    hearing, and the actual trial or hearing, all costs of maintaining  
19    custody of the patient and transporting him or her to and from the  
20    hospital, and costs of appeal, which statements shall be properly  
21    certified by a judge of the superior court of that county and the  
22    statement of mental health treatment costs shall be sent to the State  
23    Department of Mental Health and the statement of all nontreatment  
24    costs shall be sent to the Controller for approval. After approval,  
25    the department shall cause the amount of mental health treatment  
26    costs incurred on or after July 1, 1987, to be paid to the county  
27    mental health director or his or her designee where the trial or  
28    hearing was held out of the money appropriated for this purpose  
29    by the Legislature. In addition, the Controller shall cause the  
30    amount of all nontreatment costs incurred on and after July 1,  
31    1987, to be paid out of the money appropriated by the Legislature,  
32    to the county treasurer of the county where the trial or hearing was  
33    had. *Commencing January 1, 2012, the nontreatment costs shall*  
34    *be paid by the Department of Corrections and Rehabilitation*  
35    *pursuant to Section 4750 of the Penal Code.*

36    (b) Whenever a hearing is held pursuant to Section 1604, 1608,  
37    1609, or 2966 of the Penal Code, all transportation costs to and  
38    from a state hospital or a facility designated by the community  
39    program director during the hearing shall be paid by the Controller  
40    as provided in this subdivision. The appropriate financial officer

1 or other designated official of the county in which a hearing is  
2 held shall make out a statement of all transportation costs incurred  
3 by the county, which statement shall be properly certified by a  
4 judge of the superior court of that county and sent to the Controller  
5 for approval. The Controller shall cause the amount of  
6 transportation costs incurred on and after July 1, 1987, to be paid  
7 to the county treasurer of the county where the hearing was had  
8 out of the money appropriated by the Legislature.

9 As used in this subdivision the community program director is  
10 the person designated pursuant to Section 1605 of the Penal Code.

11 SECTION 1. ~~Section 1102.18 is added to the Civil Code, to~~  
12 ~~read:~~

13 ~~1102.18. The seller of any residential dwelling that is in close~~  
14 ~~proximity to a landfill activity, operation, or facility, or~~  
15 ~~appurtenances thereof, shall give written notice to the purchaser~~  
16 ~~of that real property before transfer of title that the property is~~  
17 ~~subject to Section 3482.7. The purchaser shall sign the disclosure~~  
18 ~~required pursuant to this section.~~

19 SEC. 2. ~~Section 3482.7 is added to the Civil Code, to read:~~

20 ~~3482.7. (a) No landfill activity, operation, or facility, or~~  
21 ~~appurtenances thereof, conducted or maintained for commercial~~  
22 ~~purposes, and in a manner consistent with proper and accepted~~  
23 ~~customs and standards, as established and followed by similar~~  
24 ~~landfill operations in the same locality, shall become a nuisance,~~  
25 ~~public or private, due to any changed condition in or about the~~  
26 ~~locality, after it has been in operation for more than three years,~~  
27 ~~if it was not a nuisance at the time it began.~~

28 ~~(b) Subdivision (a) shall not apply if the landfill activity,~~  
29 ~~operation, or facility, or appurtenances thereof, obstructs the free~~  
30 ~~passage or use, in the customary manner, of any navigable lake,~~  
31 ~~river, bay, stream, canal, or basin, or any public park, square, street,~~  
32 ~~or highway.~~

33 ~~(c) Subdivision (a) shall not invalidate any provision contained~~  
34 ~~in the Health and Safety Code, Fish and Game Code, Food and~~  
35 ~~Agricultural Code, or Division 7 (commencing with Section 13000)~~  
36 ~~of the Water Code, if the landfill activity, operation, or facility, or~~  
37 ~~appurtenances thereof, constitutes a nuisance, public or private,~~  
38 ~~as specifically defined or described in any of those provisions.~~

39 ~~(d) This section shall prevail over any contrary provision of an~~  
40 ~~ordinance or regulation of a city, county, city and county, or other~~

1 political subdivision of the state. However, nothing in this section  
2 shall preclude a city, county, city and county, or other political  
3 subdivision of this state, acting within its constitutional or statutory  
4 authority and not in conflict with other provisions of state law,  
5 from adopting an ordinance that allows notification to a prospective  
6 homeowner that the dwelling is in close proximity to a landfill  
7 activity, operation, or facility, or appurtenances thereof, and is  
8 subject to the provisions of this section consistent with Section  
9 1102.6a.

10 (e) For purposes of this section, the term “landfill activity,  
11 operation, or facility, or appurtenances thereof” shall include, but  
12 not be limited to, a waste management unit at which waste is  
13 discharged in or on land for disposal. “Landfill activity, operation,  
14 or facility, or appurtenances thereof” does not include any surface  
15 impoundment, waste pile, land treatment unit, injection well, or  
16 soil amendment.